



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Handwritten signature

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/648,378

08/27/2003

Howard E. Rhodes

M4065.0784/P784

3719

24998

7590

09/29/2004

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L STREET NW

WASHINGTON, DC 20037-1526

EXAMINER

DANG, PHUC T

ART UNIT

PAPER NUMBER

2818

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/648,378	RHODES ET AL.	
	Examiner	Art Unit	
	PHUC T DANG	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-82 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Application/Control Number: 10/648,378
Art Unit: 2818

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Group I, Claims 1-34, drawn to a structure of sensor pixel, classified in class 257, subclass 197.
 - II. Group II, Claims 35-54, drawn to an image sensor system, classified in class 257, subclass E27.083.
 - III. Group III, Claims 55-82, drawn to method of processing a sensor pixel, classified in class 438, subclass 84.

2. The inventions I and III are distinct, each from the other because of the following reasons:

3. Inventions I and III are related as apparatus and product made. The invention in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that product as claimed can be made by another and materially different apparatus (MPEP 806.05(g)). In this case, group III invention would not necessary imply unpatentability of the group I since the device of group I inventions could be made by a product different from those of group III. However, the issues of method and product claims are divergent.

Inventions I, and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operations, different functions, or different effects (MPEP 806.04, MPEP 808.01). In the instant case, the different inventions have different modes of operation and different functions. The five inventions are patentably distinguished by their mutually details as set out above. The limitations recited in the invention I has not been recited in the other inventions II, and vice-verse. The limitations recited in on one Group, but not in the other Groups evident that the various combinations are patentable distinct from each other because a reference which anticipates one of the invention would not, in and of itself, makes the other inventions obvious.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by either different classification, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement to be traversed

(37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

7. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Phuc T. Dang whose telephone number (571) 272-1776. The examiner can normally be reached on Monday through Friday from 8:00am to 5:00pm.

Phuc T. Dang

PD

A handwritten signature in black ink, appearing to read 'Phuc T. Dang', with a long, sweeping horizontal stroke extending to the right.

Primary Examiner

Art Unit 2818